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WILLIAM T. WALSH
CLERK

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY
TRENTON DIVISION

James L. Chambers, Jr. Plaintiff, v. Wells Fargo Bank, N.A.; Federal Home Loan Mortgage Corporation /a/k/a Freddie Mac; Reed Smith LLP; Fleming L. Ware; DOES 1-100 Defendants	)))))))))))))	**CASE NO.:** **COMPLAINT** **TO ENFORCE THE RESCISSION UNDER TRUTH IN LENDING ACT** ***15 U.S.C.*** **1635,** ***et seq.*** **and/or 12** ***CFR.*** **226.23 §** ***et seq.;*** **TO RETURN THE ORIGINAL NOTE MARKED CANCELLED;** **TO RETURN THE MORTGAGE AND RECORD SATISFACTION OF MORTGAGE.** **RESTITUTION OF MONIES PAID 12 C.F.R. § 1026.23(d)(2)**

Plaintiff, James L. Chambers, Jr. (hereinafter "Plaintiff" and/or "Chambers") complains against all defendants hereby and alleges as follows:

I. PRELIMINARY STATEMENT

1. Plaintiff institutes this action for enforcement of rescission, actual damages, statutory damages, and the costs of this action against all named Defendants for multiple violations of the Truth in Lending act, 15 U.S.C. § 1635 et seq., (hereinafter TILA), and Federal Reserve Board Regulation Z, 12 C.F.R. § 226.23.

2. Promulgated pursuant thereto and as pendent Claims and for Enforcement of Rescission under TILA; Restitution of Assets. Per statutes: Rescission effected per 15 U.S.C. §1635(b), Regulation Z, 12 C.F.R. 226.23(d)(1), 12 C.F.R. 226.23(d)(2) and 12 C.F.R. § 1026.23(d)(2).

3. Defendants did not protest or contest this rescission notice as required under § 226.23(d)(2)(3) therefore the loan debt has been forfeited and forever released by Defendants and any others involved by their failure provide TILA required disclosures and to challenge within 20 days of tender of the rescission of their obligations under 226.23(d)(2)(3) by the end of the 20 day performance period ending on ***02/15/2015***. Therefore, under the law there is no enforceable Note or Mortgage.

4. **The instant suit is to enforce the rescission which was effected by operation of law and NOT a suit to make the rescission effective by decision of this court.** The cancellation of the note and mortgage has already happened by operation of law. The rescission is effective, the note and mortgage are void as of the date of mailing of the notice of rescission. The instant suit is to enforce the return of the note marked cancelled, filing satisfaction of the mortgage in the county records and return of all monies paid.

II. JURISDICTION AND VENUE

1. This Court has original jurisdiction over this action pursuant to 28 U.S.C. § 1331. Federal district courts have original jurisdiction over "all civil actions arising under the Constitution, laws or treaties of the United States." 28 U.S.C. § 1331;

2. The jurisdiction of this court is invoked pursuant to 12 U.S.C. § 1452(f); 15 U.S.C. §1611; 15 U.S.C. §1635 and 15 U.S.C. § 1640, federal statutes. In addition, this court has original jurisdiction pursuant to 12 *CFR*. 226.23.

3. Jurisdiction of this court for the pendent claims is authorized under FED. R. Civ. P. 18(a).

4. This Court has personal jurisdiction over Defendant(s) and venue in this judicial district is proper pursuant to 28 U.S.C. § 1391(b), because a substantial part of the events or omissions and violations give rise to the Plaintiff's claims occur, committing a acts inside New Jersey or outside of New Jersey causing injury within New Jersey.

III. THE PARTIES

5. Plaintiff, James L. Chambers is a natural person at all times relevant to this complaint has been the owner and resident of real property located at 262 Leffler Circle Florence, New Jersey 08518.

6. Defendant Wells Fargo Bank, N.A.., (hereinafter "Wells Fargo") has a principal place of business at 101 North Phillips Avenue, Sioux Falls, SD 57104 and does not have registered agent to effect service in the state of South Dakota. Wells Fargo is regulated by the Office of the Comptroller of the Currency. Wells Fargo was determined not to be a viable, legal entity under jurisdiction of the State of New Jersey and does not maintain registered agent with the Secretary of State of New Jersey. Plaintiff reserves the right to amend this complaint to add additional facts when ascertained. Wells Fargo is a broker who received commissions for processing the loan documents signed by Chambers. Wells Fargo pretended to act as a "lender" where in fact they were not.

7. Defendant Federal Home. Loan Mortgage Corporation (hereinafter "Freddie Mac") has a principal place of business at 8200 Jones Branch Drive, McLean, Virginia 22102. Freddie Mac was initially chartered by Congress to facilitate the expansion and improve the geographic distribution of credit for residential mortgages. Federal Home Loan Mortgage Act,

Pub.L. No. 91-351 Title III, s. 302, 84 Stat. 451 (1970) (codified as 12 U.S.C. §§ 1451-59). At the time of its initial charter, Freddie Mac was entitled to the priorities and immunities of the United States, including tax exempt status. However, in 1989, Congress amended Freddie Mac's enacting statute and significantly altered both its corporate structure and its relationship with the United States. Financial Institutions Reform, Recovery and Enforcement Act of 1989, Pub.L. No. 101-73, s. 731, 103 Stat. 430 (codified at 12 U.S.C. §§ 1811-1833e) (hereinafter "FIRREA")

FIRREA amendments privatized the management and operations of Freddie Mac. Freddie Mac is now owned by private shareholders. None are government officials. 12 U.S.C. § 1452(a)(2)(A)

8. Freddie Mac is being named defendant in the instant lawsuit as a result of its claim to own the loan and as such the rescission mailed to Freddie Mac directly effected this defendant. On January 9, 2015, Plaintiff entered his personal information into Freddie Mac website and as a result Freddie Mac responded in affirmative that it does allegedly own Plaintiff's loan.

9. Defendant Reed Smith LLP, (hereinafter "Reed Smith") located at 136 Main Street, Suite 250, Princeton, New Jersey 08540, a foreclosure mill that files boiler plate court approved foreclosure complaints and enters into litigation in opposition to homeowners, executes and records documents in state court tortuously injuring Plaintiff by its own conduct and the conduct of their client(s).

10. Reed Smith by association in fact and as part of the *modus operandi* of Reed Smith representing mortgage servicers - Wells Fargo as alleged servicer and a false "lender" and intentionally with full knowledge offer false complaints and false arguments, based on false verifications and on falsely created, executed and recorded documents.

11. The core of the Reed Smith activity in addition to foreclosing on innocent homeowners and this Plaintiff is the creation of fraudulent documents, which in the judicial foreclosure on the subject real estate, amounts to documents, from but not limited to the Complaint, NOI, the Corporate Assignments of mortgage, Certification of Diligent Inquiry, false affidavits/certifications, misrepresentations of who the actual lender is.

12. Defendant Fleming L. Ware, (hereinafter "Ware") is an attorney with Reed Smith LLP. Ware on behalf of Reed Smith files boiler plate court approved foreclosure complaints and enters into litigation in opposition to homeowners, executes and records documents in state court tortuously injuring Plaintiff by its own conduct and the conduct of their client(s).

13. The core of Ware's activity in addition to foreclosing on innocent homeowners and this Plaintiff is the creation of fraudulent documents, which in the judicial foreclosure on the subject real estate, amounts to documents, from but not limited to the Complaint, NOI, the Corporate Assignments of mortgage, Certification of Diligent Inquiry, false affidavits/certifications, misrepresentations of who the actual lender.

14. Whenever an act or omission of a corporation or business entity is alleged in this Complaint, the allegation shall be deemed to mean and include an allegation that the corporation or business entity acts or omits to act through its authorized officers, directors, agents, servants, and/or employees, acting within the course and scope and or abuse of their duties, that the act or omission is authorized by corporate managerial officers or directors, and that the act or omission is ratified by the officers and directors of the corporation or business entity, where so reasonably stated, implied and/or inferred.

15. Any allegation about acts of any corporate or other business means that the corporation or other business did the acts alleged through its officers, directors, employees,

agents and/or representatives while they are acting within the actual or ostensible scope of or abuse of their authority where so reasonably stated, implied and/or inferred.

16. At all relevant times, defendants commit the acts, cause or direct others to commit the acts, or permit others to commit the acts alleged in this complaint. At all relevant times, defendants know or realize that they are engaging in or planning to engage in the violations of the laws, the laws of the United States, and Plaintiff's Property Right of Citizens alleged in this Complaint.

17. Knowing or realizing that defendants are engaging in or planning to engage in unlawful acts nevertheless engage in and/or facilitate the commission of those unlawful acts. Defendants intend to and do engage in and/or encourage, facilitate, and/or assist in the commission of the unlawful acts, and thereby commit and/or aid and abet others in the unlawful violations of Federal law and Plaintiff's Rights under Federal Laws.

18. Plaintiff invokes Federal Rules of Evidence to govern these proceedings and submits into evidence file the exhibits attached and incorporated hereto pursuant to Federal Rules of Evidence. All Defendants are hereby given a notice pleading as is required under TILA claims.

IV. FACTUAL ALLEGATIONS

1. On January 28, 2014, James L. Chambers ("Plaintiff") as a result of mortgage modification offered by Wells Fargo ("Defendant" or "Wells Fargo") of the original Note and Mortgage dated November 12, 2007 in the amount of $417,000.00, Plaintiff executed a Home Affordable Modification Agreement ("New Mortgage") in the amount of $548,200.59 modifying the original amount of $417,000.00. The original mortgage and the modification are on Plaintiff's personal dwelling, which makes the transaction a consumer credit transaction within

the meaning of TILA, 15 U.S.C. §1602 and Regulation Z § 226.26, a true and accurate copy of the original Note and Mortgage is attached and incorporated hereto as **Exhibit A** and **Exhibit B,** Home Affordable Modification Agreement, New Mortgage, is attached and incorporated hereto as **Exhibit C,** the attached exhibits are incorporated hereby by reference.

2. On January 28, 2014 to present, Wells Fargo, their agents and their known and unknown successors and assigns violated multiple counts of Truth in Lending Act by failing to disclose to Plaintiff who the true lender is and using subterfuge to hide the fact that Wells Fargo acted as a "lender" at closing and were paid to pose as the "lender" when in fact the lender is an undisclosed unregistered third party.

3. At the closing on January 28, 2014, Plaintiff was NOT given a copy of the Truth in Lending Act's required "Notice of Right to Cancel," indicating that he had three days to cancel the transaction.

4. Defendants failed to deliver all material disclosures required by the Truth in Lending Act and Regulation Z, including but not limited to a correctly completed Notice of Right to Cancel as required under 15 U.S.C. § 1635(a) and Regulation Z § 226.23(b). Wells Fargo failed to provide Plaintiff *inter alia* with a Notice of Rescission, the limitation on the right to rescind was extended to tree years. Under federal law, the Mortgage is now extinguished and any rights under the Mortgage have terminated.

5. On January 28, 2014 to present Plaintiff did not receive two signed copies of the loan documents from true lender;

6. On January 28, 2014 to present Plaintiff did not receive two copies of a Right to Rescind/Cancel Notice as required by law from true lender. All consumers with rescission rights must receive two copies of signed loan documents and a Right to Rescind/Cancel Notice from

lender.

7. Pursuant to 12 *CFR.* 226.23(f)(2)

> (f) *Exempt transactions.* The right to rescind does not apply to the following:
> (2)A refinancing or consolidation by the same creditor of an extension of credit already secured by the consumer's principal dwelling. **The right of rescission shall apply, however, to the extent the new amount financed exceeds the unpaid principal balance,** any earned unpaid finance charge on the existing debt, and amounts attributed solely to the costs of the refinancing or consolidation. [bold emphases added]

8. On November 12, 2007, Plaintiff signed a Note and Mortgage in the amount of 417,000.00. On January 28, 2014, Plaintiff executed a Home Affordable Modification Agreement ("New Mortgage") in the amount of $548,200.59 modifying the original amount of $417,000.00. ***The amount financed exceeds the unpaid principle balance***. Plaintiff has an unconditional right to rescind the transaction and timely did so.

9. On January 23, 2015, Plaintiff sent by certified mail return receipt #70122920000131522115 a Notice of Rescission to Wells Fargo as required to effect the requirements to rescind under TILA. The Notice is attached and incorporated hereto as **Exhibit D**. Wells Fargo received the Notice of rescission on January 26, 2015. Certified mail and USPS.com confirmation of delivery is attached and incorporated hereto as **Exhibit E**.

10. At least 20 days passed from the rescission and receipt of notice without Wells Fargo or their agent contesting the rescission by filing, as required within 20 days of receipt of the notice, judicially new lawsuit challenging the content of the Notice of Rescission. As a result Wells Fargo is (a) in violation of statute, subject to an enforcement suit on their duties under rescission (b) Wells Fargo waived any objection to the rescission that should have been brought as their own lawsuit within the 20 days.

11. As a result of Wells Fargo silence, the rescission is effected and fully enforced and Plaintiff is entitled to the benefits and reimbursements accorded under the TILA. The limitation on the right to rescind was extended indefinitely as the transaction was never consummated between Plaintiff and an unknown actual lender. Under federal law, the Mortgage is now extinguished and any rights under the Mortgage have terminated.

12. On January 23, 2015, Plaintiff sent by certified mail return receipt #70122920000131522108 a Notice of Rescission to Freddie Mac as required to effect the requirements to rescind under TILA. The Notice is attached and incorporated hereto as **Exhibit D.** Freddie Mac received the Notice of rescission on January 26, 2015. Certified mail and Return Receipt is attached and incorporated hereto as **Exhibit E.**

13. At least 20 days passed from the rescission and receipt of notice without Freddie Mac or their agent contesting the rescission by filing, as required within 20 days of receipt of the notice, judicially new lawsuit challenging the content of the Notice of Rescission.

14. As a result of Freddie Mac silence, the rescission is effected and fully enforced and Plaintiff is entitled to the benefits and reimbursements accorded under the TILA. The limitation on the right to rescind was extended indefinitely as the transaction was never consummated between Plaintiff and an unknown actual lender. Under federal law, the Mortgage is now extinguished and any rights under the Mortgage have terminated.

V. FIRST CAUSE OF ACTION FOR ENFORCEMENT OF RESCISSION UNDER 15 U.S.C. § 1635

15. Plaintiff alleges and incorporates by reference each of the preceding paragraphs as if fully set forth in this paragraph.

16. This consumer credit transaction was subject to Plaintiff's right of rescission. 15 U.S.C. § 1635 and Regulation Z § 226.23.

17. 15 U.S.C. § 1635

(a) Disclosure of obligor's right to rescind

> "Except as otherwise provided in this section, in the case of any consumer credit transaction (including opening or increasing the credit limit for an open end credit plan) in which a security interest, including any such interest arising by operation of law, is or will be retained or acquired in any property which is used as the principal dwelling of the person to whom credit is extended, the obligor shall have the right to rescind the transaction until midnight of the third business day following the consummation of the transaction"

18. Plaintiff has a continuing right to rescind the transaction until and up to three years after consummation of the transaction, pursuant to 15 U.S.C. § 1635(a) and Regulation Z § 226.23(a)(3).

19. 15 U.S.C. 1635(a) is clear "any consumer credit transaction" that pertains to the principal dwelling "**shall have the right to rescind the transaction".**

20. Defendants failed to deliver all material disclosures required by the Truth in Lending Act and Regulation Z, including but not limited to a correctly completed Notice of Right to Cancel as required under 15 U.S.C. § 1635(a) and Regulation Z § 226.23(b).

21. On January 23, 2015, Plaintiff rescinded the entire transaction by sending a Notice of Rescission to defendants as required effecting the requirements to rescind under TILA. Defendants received the Notice of rescission on January 26, 2015.

22. The cancellation of the note and Mortgage has already happened by operation of law on January 23, 2015. The rescission is effective, the Note and Mortgage are void as of the date of mailing of the notice of rescission. The instant suit is to enforce the return of the note

marked cancelled, satisfaction of the Mortgage and return of all monies paid.

23. Section 1635(a) explains in unequivocal terms how the right to rescind is to be exercised: It provides that a borrower 'shall have the right to rescind ... by notifying the creditor, in accordance with regulations of the Board, of his intention to do so'. The language leaves no doubt that rescission is effected when the borrower notifies the creditor of his intention to rescind.

24. Defendants are bound to 15 U.S.C. §1635 that cancels the note and voids the security interest - Mortgage recorded in the Official Records of Burlington County on November 19, 2007 as Document No. 4504505 and New Mortgage recorded on April 9, 2014 as Document No. 505461, which replaced the previous Mortgage.

25. Plaintiff demands the Note be returned marked: "Cancelled" thereby, effectuating the Nullification and Voiding of Note and Mortgage and entered in the Burlington County Records as such, with effective date – ***of 01/23/2015***.

26. Plaintiff demands return of *all* funds paid by Plaintiff to any and all parties such as servicers of the alleged loan. The funds remain unaccounted for by any defendant in spite of the clear lawfully implemented Rescission of the Note by Plaintiff.

27. 15 U.S.C. 1640(3) in the case of any successful action to enforce the foregoing liability or in any action in which a person rescinded under section 1635 of this title, the costs of the action, as determined by the court are recoverable.

28. Plaintiff may amend this complaint. Filing at this time is to preserve the time limit for exercise of right under 1635(f)(3) prescribed by TILA. (3) ... upon the expiration of one year following the conclusion of the proceeding, or any judicial review or period for judicial review thereof, whichever is later.

29. By reason of the aforesaid violations of the Act and Regulation Z, defendant is liable to plaintiff in the amount of twice the finance charge, actual damages to be established at trial, and costs in accordance with 15 U.S.C. § 1640.

VI. SECOND CAUSE OF ACTION FOR ENFORCEMENT OF RESCISSION UNDER 12 C.F.R. § 226.23

30. Plaintiff alleges and incorporates by reference each of the preceding paragraphs as if fully set forth in this paragraph.

31. 12 C.F.R. § 226.23 –

> **(2)** To exercise the right to rescind, the consumer shall notify the creditor of the rescission by mail, telegram or other means of written communication. **Notice is considered given when mailed**, when filed for telegraphic transmission or, if sent by other means, when delivered to the creditor's designated place of business. [emphases added]

32. Pursuant to the notice of rescission and the fact that it IS effective upon mailing all Defendants have forfeited their right to challenge the Notice of Rescission.

33. According to TILA, Reg. Z and the U.S. Supreme Court (Jesinoski v Countrywide Home Loans, Inc.) decision the rescission IS effective by operation of law the moment it is put in US Mail.

34. There is no other interpretation of "effective" because the Supreme Court under the annoyed pen of Justice Scalia has said there is nothing to interpret. When the rescission was mailed it was effective BY OPERATION OF LAW.

35. Notwithstanding that Plaintiff had full right to rescind the transaction and recall his loan documents back, Plaintiff does not have to be right to send it. THAT issue is left to the true creditors to allege in a lawsuit to vacate the rescission. And they must do so within 20 days.

36. On January 23, 2015, Plaintiff effected the rescission by mailing the notice to Wells Fargo and Freddie Mac, the parties have received the notice on January 26, 2015.

37. Defendants are in violation of §226.23(b)(1)

> Regulation Z §226.23(b)(1) "Notice *of right to rescind. In a transaction subject to rescission, a creditor shall deliver two copies of the notice of the right to rescind to each consumer entitled to rescind (one copy to each if the notice is delivered in electronic form in accordance with the consumer consent and other applicable provisions of the E-Sign Act). The notice shall be on a separate document that identifies the transaction and shall clearly and conspicuously disclose the following:*
>
> *(i)The retention or acquisition of a security interest in the consumer's principal dwelling.*
> *(ii) The consumer's right to rescind the transaction.*
> *(iii) How to exercise the right to rescind, with a form for that purpose, designating the address of the creditor's place of business.*
> *(iv) The effects of rescission, as described in paragraph (d) of this section.*
> *(v) The date the rescission period expires."*

38. On January 28, 2014, to present, in violation of 15 U.S.C. §1635, Wells Fargo and its agents and/or successors and assigns violated multiple counts of Truth in Lending Act by failing to deliver all material disclosures required by the Truth in Lending Act and Regulation Z, including but not limited to a correctly completed Notice of Right to Cancel as required under 15 U.S.C. § 1635(a) and Regulation Z § 226.23(b).The limitation on the right to rescind was extended to three years. Under federal law, the Mortgage is now extinguished and the rights under the Mortgage have terminated.

39. At no time after the execution of the New Mortgage *were* closing documents called "material disclosures" as described in TILA given to or made available to the Plaintiff.

40. The issue of Plaintiff's Right to rescind the alleged loan and its cancellation as alleged herein, under 12 C.F.R. 226.23(h) has been settled by operation of law.

41. During the 20 days, the duties of the parties on the notice are clear: (1) return the canceled note (2) file a satisfaction of Mortgage and (3) return all money paid by Plaintiff. If the patties to the notice fail to do that they have violated the statute.

42. Defendant(s) and their successors and assigns have violated the statute, and failed to (1) return the canceled note (2) file a satisfaction of Mortgage and (3) return all money paid by borrower.

43. If defendants take issue with whether the rescission should be effective this way, they would have had to file a lawsuit within the 20 days allowed for performing the duties under TILA (see above). If they want to say the statute of limitations has run, they must do it in a lawsuit filed within the 20 days. Otherwise the window closes and in this case it did close.

44. The Defendants in this action neither individually or jointly and/or severally nor their agents or assigns by their non-performance of C.F.R. 226.23(d)(2) within the 20 day performance period following tender of the Rescission as provided in 12 C.F.R. 226.23(d)(2) have as a matter of law waived any defense or claims which effects the loan cancellation.

45. Thus, the right of defendants to challenge the Rescission by Plaintiff is waived and legally barred by operation of the statute of Limitation inherent in TILA which in pertinent part states:

> ***12 CFR 226. 23(d){2)***
> Within 20 calendar days after receipt of a notice of rescission, the creditor **shall return any money or property that has been given to anyone in connection with the transaction** and shall take any action necessary to reflect the termination of the security interest. [bold emphases added]

46. The return of the Note has NOT been effected by any defendant to date and the sums remain unpaid.

47. The satisfaction of the Mortgage has NOT been effected by any defendant to date.

48. Defendants are bound to the agreement with the Federal Reserve Board and Regulation Z that cancels the note and voids the Mortgage recorded in the Official Records of Burlington County on November 19, 2007 as Document No. 4504505 and New Mortgage recorded on April 9, 2014 as Document No. 505461, which replaced the previous Mortgage.

49. Plaintiff demands the Note be returned marked: "Cancelled" thereby, effectuating the Nullification and Voiding of Note and entered in the Burlington County Records as such, effective with the *date – **of 01/23/2015**.*

50. Plaintiff demands return of funds paid by Plaintiff to any and all parties such as servicers of the alleged loan. The funds remain unaccounted for by any defendant in spite of the clear lawfully implemented Rescission of the Mortgage by Plaintiff.

51. Plaintiff may amend this complaint. Filing at this time is to preserve the time limit for exercise of right under 1635(f)(3) prescribed by TILA. (3) ... upon the expiration of one year following the conclusion of the proceeding, or any judicial review or period for judicial review thereof, whichever is later.

52. By reason of the aforesaid violations of the Act and Regulation Z, defendants are liable to Plaintiff in the amount of twice the finance charge, actual damages to be established at trial, and costs in accordance with 15 U.S.C. § 1640.

53. In the instant case where Plaintiff enter into a contract based on a belief as to a intentionally misrepresented material fact underlying the terms of the agreement, the contract is rescinded to the extent that there was no "meeting of the minds" necessary to validate the agreement.

VII. THIRD CAUSE OF ACTION AS TO REED SMITH LLP FOR VIOLATION OF 15 U.S.C. §1611

54. Plaintiff alleges and incorporates by reference each of the preceding paragraphs as if fully set forth in this paragraph.

55. 15 U.S. Code § 1611 - Criminal liability for willful and knowing violation.

"Whoever willfully and knowingly

(1) gives false or inaccurate information or fails to provide information which he is required to disclose under the provisions of this subchapter or any regulation issued thereunder,
(2) uses any chart or table authorized by the Bureau under section 1606 of this title in such a manner as to consistently understate the annual percentage rate determined under section 1606 (a)(1)(A) of this title, or
(3) otherwise fails to comply with any requirement imposed under this subchapter, shall be fined not more than $5,000 or imprisoned not more than one year, or both."

56. On January 23, 2015, Plaintiff rescinded the entire transaction by sending a Notice of Rescission to defendants as required effecting the requirements to rescind under TILA. Defendants received the Notice of rescission on January 26, 2015.

57. Reed Smith knew that the notice was given to the principal and as such is given to Reed Smith - an agent.

58. Reed Smith has acknowledged the Notice of Rescission by sending Plaintiff a letter dated March 23, 2015, the letter is attached and incorporated hereto as **Exhibit F,** yet with full knowledge proceeded in violation of 15 U.S.C. § 1611 to file motion for summary judgment and motion for final judgment in state court.

59. On April 20, 2015, Reed Smith filed motion for summary judgment in state court in violation of 15 U.S.C. § 1611 and proceeded on the motion with full knowledge that they could not file such motion as the rescission was effected on January 23, 2015.

60. Reed Smith intended to and did engage in and/or encourage, facilitate, and/or

assist in the commission of the unlawful acts, and thereby committed and/or aided and abetted others and specifically all named defendants in the unlawful conduct.

61. Reed Smith continues to implement filings in the state court misleading the court as to the status of the mortgage knowing full well they had no authority to do so, yet intentionally and with malice continued then and do so now with their unlawful acts against Plaintiff.

62. Under the Truth in Lending Act failure to satisfy the Act subjects a lender or their agent to criminal penalties for noncompliance, see 15 U.S.C. §1611. Plaintiff has a private right of action under 15 U.S.C. §1611 and Section 1640(e) provides that an action for such damages "may be brought" within one year after a violation of the Act, but that a borrower may assert the right to damages "as a matter of defense by recoupment or set-off " in a collection action brought by the lender even after the one year is up.

63. On March 20, 2015 to present, Reed Smith violates 15 U.S.C. § 1611.

64. Defendant is hereby given a notice pleading as is required under TILA claims.

VIII. FOURTH CAUSE OF ACTION AS TO FLEMING L. WARE FOR VIOLATION OF 15 U.S.C. §1611

65. Plaintiff alleges and incorporates by reference each of the preceding paragraphs as if fully set forth in this paragraph.

66. 15 U.S. Code § 1611 - Criminal liability for willful and knowing violation.

"Whoever willfully and knowingly

(1) gives false or inaccurate information or fails to provide information which he is required to disclose under the provisions of this subchapter or any regulation issued thereunder,

(2) uses any chart or table authorized by the Bureau under section 1606 of this title in such a manner as to consistently understate the annual percentage rate determined under section 1606 (a)(1)(A) of this title, or

(3) otherwise fails to comply with any requirement imposed under this subchapter, shall be fined not more than $5,000 or imprisoned not more than one year, or both."

67. On January 23, 2015, Plaintiff rescinded the entire transaction by sending a Notice of Rescission to defendants as required effecting the requirements to rescind under TILA. Defendants received the Notice of rescission on January 26, 2015.

68. Ware knew that the notice was given to the principal and as such is given to Reed Smith - an agent.

69. Ware have acknowledged the Notice of Rescission by sending Plaintiff a letter dated March 23, 2015, the letter is attached and incorporated hereto as **Exhibit F,** yet with full knowledge proceeded in violation of 15 U.S.C. § 1611 to file motion for summary judgment and motion for final judgment in state court.

70. Ware intended to and did engage in and/or encourage, facilitate, and/or assist in the commission of the unlawful acts, and thereby committed and/or aided and abetted others and specifically all named defendants in the unlawful conduct.

71. Ware continue to implement filings in the state court misleading the court as to the status of the mortgage knowing full well they had no authority to do so, yet intentionally and with malice continued then do so now their unlawful acts against Plaintiff.

72. On April 20, 2015, Ware filed motion for summary judgment in state court in violation of 15 U.S.C. § 1611 and proceeded on the motion with full knowledge that they could not file such motion as the rescission was effected on January 23, 2015.

73. Under the Truth in Lending Act failure to satisfy the Act subjects a lender or their agent to criminal penalties for noncompliance, see 15 U.S.C. §1611. Plaintiff has a private right

of action under 15 U.S.C. §1611 and Section 1640(e) provides that an action for such damages "may be brought" within one year after a violation of the Act, but that a borrower may assert the right to damages "as a matter of defense by recoupment or set-off" in a collection action brought by the lender even after the one year is up.

74. On March 20, 2015 to present, Ware violates 15 U.S.C. § 1611.

75. Defendant is hereby given a notice pleading as is required under TILA claims.

IX. FIFTH CAUSE OF ACTION – ENFORCEMENT OF RESTITUTION 12 C.F.R. § 1026.23(d)(2)

76. Plaintiff alleges and incorporates by reference each of the preceding paragraphs as if fully set forth in this paragraph.

77. Under the Truth in Lending Act, 15 U.S.C. §1635, et seq. and 12 C.F.R 226.23, et seq. Plaintiff is entitled to rescind the promissory Note and Mortgage per 15 U.S.C. §1635 as alleged, *supra.*

78. On January 23, 2015, Plaintiff properly and effectively exercised the right to rescind by sending the Notice of Rescission to defendants via Certified Return Receipt U.S. Mail.

79. Plaintiff alleges that defendants refused to acknowledge the rescission, continued to act as if the rescission was never sent and defrauded Plaintiff as a result by damaging his ownership rights, Property Rights of Citizens, credit and right to act in violation of the act and Plaintiff is entitled to damages and an order to return the original Note marked "cancelled", record satisfaction of the Mortgage and with restitution of all sums paid to anyone claiming to be a "lender" and/or a servicer and/or their agents.

80. For associated **Declaratory Relief** that the Note and Mortgage are rescinded and cancelled, that all assets Plaintiff prove has been paid under the Note be restored forthwith to

Plaintiff in the sum of not less than $215,437.00 including all closing costs not less than $21,451.00 and for statutory assessments, attorney fees and costs associated in both damages, and relief TILA calls out.

WHEREFORE, Plaintiff respectfully request that judgment be entered in his favor and against all defendants as follows:

1. Return of the Original Note in the amount of $417,000.00 marked Cancelled;
2. Return of the Superseding Note in the amount of $548,200.59 marked Cancelled;
3. Return of the Original Mortgage;
4. Return of New Mortgage;
5. Filing Satisfaction of Mortgage recorded on November 19, 2007 as Document No. 4504505 in the Records of Burlington County;
6. Filing Satisfaction of Mortgage recorded on April 9, 2014 as Document No. 505461 in the Records of Burlington County;
7. Award actual damages to be established at trial pursuant to 15 U.S.C. § 1640(a)(I);
8. Award statutory damages in the amount of twice the finance charge not to exceed $1000 per violation or the statutory maximum whichever is greater in accordance with 15 U.S.C. § 1640(a)(2);
9. Award plaintiff costs and reasonable attorney's fees in accordance with 15 U.S.C.§ 1640;
10. Award Plaintiff costs and reasonable attorney's fees in accordance with 15 U.S.C.§ 1640 for defending against all actions in state and/or federal courts to protect his property;

11. For the Note and Mortgage and Restoration of money's kept to which defendants are not entitled in the sum of $215,437.00;

12. For Restoration of escrow fees, costs and assessments;

13. For restoration of all closing costs;

14. For such other relief as the court deems appropriate;

15. For Compensatory damages;

16. For Emotional distress;

17. For Legal Fees, Court Costs;

18. For Actual damages.

Dated: September , 2015

Respectfully submitted by:

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